

## REMARKS/ARGUMENTS

Formal drawings are submitted herewith.

Claims 1 – 33 are present in the application. Claims 1 and 4 have been amended; claims 31 – 33 have been added to more fully protect Applicants' invention

The Examiner has objected to the specification on the grounds that the claim language "means to determine the initial position" and "means to determine the final position" does not appear in the specification. With respect, Applicants direct the Examiner's attention to page 4, lines 15 – 17 of the specification where this language appears. Reference is also made to page 5, line 6 and page 7, lines 15 – 19.

Claims 1, 2, 4 – 6, 8, 14 stand rejected under 35 U.S.C. §112, second paragraph. The Examiner has taken the position that "means to" language is not permissible to invoke §112, sixth paragraph, and posits that only "means for" language is appropriate for that purpose. Therefore, according to the Examiner, the claims are indefinite. With respect, Applicants disagree and find no statutory or other authority in support of the Examiner's position. To the contrary, the M.P.E.P., Section 2181, expressly recognizes that:

"While traditional 'means for' or "step for" language does not automatically make an element a means-(or step-) plus-function element, conversely, lack of such language does not prevent a limitation from being construed as a means-(or step-) plus-function limitation".

The Federal Circuit has consistently held that even the word "means" is not required to invoke §112, sixth paragraph. See, for example, *Al-Site Corp. v. VSI Int'l, Inc.*, 174 F.3d 1308, 1317-19, 50 USPQ2d 1161, 1166-67 (Fed. Cir. 1999). For the Examiner to take the position that "means to" perform a function does not invoke §112(6) is contrary to logic and contrary to all relevant authority. Nevertheless, Applicants have chosen to not protract prosecution of the subject application by contesting mere semantic issues. Accordingly, Claims 1 and 4

have been amended in order to accommodate the Examiner's requirement to change the "means to" language to "means for" language.

In addition, the Examiner states that the specification does not support the "means plus function" language of the claims. In view of the fact that the Examiner has apparently overlooked the "means to determine the initial position" and "means to determine the final position" language appearing in the specification (see the discussion above), it is believed that this rejection is improper and that such language, of itself, supports the "means plus function" recitation in the claims. Moreover, it is so well established in the law as to not require citation that disclosure of any structure that performs a claimed function is sufficient to support a "means plus function" recitation. If the Examiner believes otherwise, Applicants request that the Examiner specifically indicate what language and what subject matter are believed by the Examiner to be lacking in the original application such that the original disclosure would not permit Applicants to utilize the "means plus function" language expressly permitted by 35 U.S.C. §112, sixth paragraph.

Claims 1, 2, 16, 17, 22, 24, 25, 30 stand rejected under 35 U.S.C. §102(b) as anticipated by Kelly (5,974,700). This rejection is traversed. It should be noted for the record that the patentee in the cited patent is the same Kelly who is one of the Applicants in the subject application. Applicants are, therefore, well aware of what is disclosed in the Kelly patent.

It should be stated initially that the claims of the subject application are distinguished from the prior art in that none of the cited patents discloses both means for determining the initial position and means for determining the final position of the studs relative to the receptacles. The Kelly patent discloses an axially symmetrical stud wherein the angular orientation of the stud in relation to the receptacle is irrelevant. Accordingly, initial and final positions are totally meaningless in the context of the Kelly patent, and, not surprisingly, that patent does not suggest any means for attaining those positions. The Kelly patent discloses a three-start thread connecting the receptacle and stud to one another. The receptacle and stud are held in place by a locking means made up of inter-

engaging posts and teeth; this arrangement does not determine a final position. Likewise, since the orientation of the studs in the Kelly patent is neither relevant nor important, the Kelly patent would not and does not suggest means for determining any particular initial position. Accordingly, claim 1, which recites means that determine the initial and final positions, is patentable.

*mt  
claims  
incl b*

Independent claims 16 and 24 also patentably distinguish over the Kelly patent. These claims recite a multi-start helical key and keyway defining the position of the spigot relative to the receptacle at the start of insertion. This feature is neither disclosed nor suggested by the Kelly patent. Although that patent discloses a multi-start thread, it does not disclose or suggest, nor do the embodiments disclosed in the Kelly patent require, determination of a particular initial position of the stud and receptacle. Accordingly, it is submitted that claims 16 and 24 are patentable over the Kelly patent.

Claims 2, 17, 22, 25 and 30 depend from one of the independent claims 1, 16 or 24 and are therefore allowable therewith.

Claims 4 - 6, 8, 14, 18, 19, 20, 26 – 28 stand initially rejected under 35 U.S.C. §103(a) as unpatentable over the Kelly patent in view of Dassler (3,911,600). This rejection is traversed. The Kelly patent and its deficiencies as a reference are described above. Dassler discloses a stud having one or more steep helical ribs for insertion into a corresponding thread in a receptacle. The rib or ribs have a locking projection to engage in a complementary recess of the receptacle to lock the stud in place. Dassler does not disclose means to determine both the initial and final positions of the stud and receptacle, and therefore cannot rectify the above-noted deficiencies in applying the Kelly patent against Applicants' claims. Nor does Dassler disclose a multi-start helical key and keyway defining the position of the spigot relative to the receptacle at the start of insertion. Accordingly, claims 4 - 6, 8, 14, 18, 19, 20, 26 – 28 are patentable over Kelly and Dassler, taken individually or in combination.

New claims 31, 32 and 33 are more limited version of claims 1, 4 and 16, respectively, and are patentable for the same reasons indicated above for the latter claims.

In view of the foregoing, Applicants submit that the subject application, with claims 1 – 33, is in condition for allowance and request that a timely Notice of Allowance be issued.

Respectfully submitted,



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